

*This opinion is nonprecedential except as provided by  
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A22-0880**

State of Minnesota,  
Respondent,

vs.

Ainoi Manila,  
Appellant.

**Filed April 24, 2023  
Affirmed  
Frisch, Judge**

Nobles County District Court  
File No. 53-CR-21-168

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Joseph M. Sanow, Nobles County Attorney, Worthington, Minnesota; and

Travis J. Smith, William C. Lundy, Special Assistant County Attorneys, Slayton,  
Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Richard Schmitz, Assistant Public  
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Frisch, Presiding Judge; Segal, Chief Judge; and Jesson,  
Judge.

**NONPRECEDENTIAL OPINION**

**FRISCH**, Judge

Appellant argues that the district court abused its discretion by (1) denying his  
motion for mistrial based on an alleged discovery violation and (2) excluding the test

results from contraband found in his housemate's bedroom. Because the district court did not abuse its discretion, we affirm.

## **FACTS**

In February 2021, police executed a search warrant at appellant Ainoi Manila's residence. Police found a pill bottle under Manila's bed, and the bottle contents field-tested positive for methamphetamine. Respondent State of Minnesota charged Manila with one count of first-degree possession of a controlled substance.<sup>1</sup> Minn. Stat. § 152.021, subd. 2(a)(1) (2020). The district court conducted a jury trial over two days. The jury reached its verdict based upon the following evidence.

### ***First Day of Trial***

During opening statement, defense counsel stated, "[t]he evidence will show that the [sic] two of the same tests were done on [the pill bottle]. The second test which was performed the next day after all the other tests had been done was a larger sample size for them to get results." Defense counsel continued, stating "[w]e were not given results of the first test the day before."

The jury heard testimony from a detective who participated in the search of Manila's residence. At the residence, officers detained Manila and three other people. Two of those individuals, A.S. and E.S., lived in a different bedroom at Manila's residence. The detective searched a bedroom that Manila confirmed was his. In that bedroom, the detective found Manila's driver's license, and under the bed, the detective found a pill

---

<sup>1</sup> The state initially also charged Manila with one count of first-degree sale of a controlled substance, Minn. Stat. § 152.021, subd. 1(1) (2020), but dismissed that charge before trial.

bottle next to methamphetamine paraphernalia. The contents of the pill bottle field-tested positive for methamphetamine. In the other bedroom, where E.S. resided, the detective found two “baggies” of crystal methamphetamine in a purse. An identification for E.S. was also in the purse. E.S. later admitted the baggies contained methamphetamine.

The detective interviewed Manila. Manila admitted to trying to smoke some of the contents of the pill bottle and to using some amount of methamphetamine every day. Based on the interview, the detective understood that Manila knew the pill bottle contained methamphetamine.

### ***Motion for Mistrial***

On the second day of trial, defense counsel moved for mistrial. That morning, the state had served defense counsel with a witness disclosure describing a conversation occurring one day before trial between the prosecutor and the Minnesota Bureau of Criminal Apprehension (BCA) forensic analyst who had tested the pill bottle. The conversation occurred before the trial began. During the conversation, the BCA analyst said the first test of the pill bottle did not return a positive result for methamphetamine. Defense counsel moved for a mistrial, arguing the witness disclosure violated *Brady v. Maryland*, 373 U.S. 83 (1963), and Minn. R. Crim. P. 9.01, subdivision 1(6) (requiring disclosure of exculpatory information).

Defense counsel argued the information about the first test was not set forth in the BCA report previously provided to the defense, that defense counsel would have mentioned this information in opening statement had it been timely disclosed, and that this information was critical. Defense counsel also asserted that the prosecution intentionally withheld the

disclosure. The prosecutor responded that the timing of the disclosure was not intentional, and she conceded that she erroneously forgot to serve defense counsel with the disclosure the same day that the conversation occurred. The prosecutor also argued that the BCA report contained the information that the first test of the pill bottle did not return a positive result for methamphetamine and that defense counsel had ample opportunity to question the BCA analyst about this information because the analyst had not yet testified at trial. The district court also received testimony from the BCA analyst for purposes of addressing the motion.

The district court denied the motion for mistrial. The district court concluded that the witness disclosure was not a *Brady* violation, finding that the disclosure was “in no way inconsistent” with the previously disclosed BCA report. The district court also concluded the disclosure did not violate Rule 9.01, subdivision 1(6), because the disclosure did not contain new information. Further, the district court found that during opening statement, defense counsel had stated that two of the same tests were performed on the pill bottle and the second test was performed the next day using a larger sample size to get results, which the district court found “implies knowledge that [the BCA] did not get results the first day” and “implied to the jury that there were no results from the first day.”

### ***Evidentiary Ruling***

During trial, the BCA analyst testified that testing confirmed that the pill bottle contained methamphetamine and that the contents weighed about 63 grams. On cross-examination, defense counsel elicited testimony that the BCA analyst had called the prosecutor the day before trial and stated the first sample of the contents of the pill bottle

did not yield a positive result for methamphetamine. Defense counsel also elicited testimony that the BCA analyst used more sample from the pill bottle for a second test because testing of the first sample did not show the presence of methamphetamine. The BCA analyst testified that the second sample from the pill bottle did not appear to be very concentrated and it had a lower concentration of methamphetamine compared to the control sample of methamphetamine.

Defense counsel attempted to introduce evidence of the comparative test results of the baggies found in E.S.'s purse, and the state objected to relevance. Defense counsel argued the comparative level of methamphetamine in the baggies was relevant to whether Manila had the requisite knowledge that the substance in the pill bottle was methamphetamine. The district court ruled that the comparative test results were not relevant because there was "insufficient evidence supporting foundation to make [the baggies] relevant" when there was no evidence that Manila knew anything about them. The district court also noted the comparative levels of methamphetamine in the pill bottle were already established by comparison to the control sample.

The jury found Manila guilty of first-degree possession. The district court sentenced Manila to 85 months' imprisonment.

Manila appeals.

## **DECISION**

Manila argues that the district court abused its discretion by (1) denying his motion for mistrial based on an alleged discovery violation and (2) excluding evidence of the comparative test results of the baggies. We disagree and address each argument in turn.

**I. The district court did not abuse its discretion by denying Manila's motion for mistrial.**

Manila argues the district court abused its discretion by denying his motion for mistrial because the district court erroneously concluded the prosecutor had not violated *Brady* or Minn. R. Crim. P. 9.01.

We review the district court's denial of a motion for mistrial for an abuse of discretion. *State v. Griffin*, 887 N.W.2d 257, 262 (Minn. 2016). "A district court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record." *State v. Jaros*, 932 N.W.2d 466, 472 (Minn. 2019) (quotation omitted). The district court should not grant a mistrial unless "a reasonable probability" exists that the trial would have come out differently "if the event that prompted the motion had not occurred." *State v. Manthey*, 711 N.W.2d 498, 506 (Minn. 2006) (quotation omitted). Whether a discovery violation occurred is an issue of law that we review de novo. *State v. Bailey*, 677 N.W.2d 380, 397 (Minn. 2004). Whether a *Brady* violation occurred presents a mixed question of law and fact that we review de novo. *Zornes v. State*, 903 N.W.2d 411, 417 (Minn. 2017).

*Brady* and Rule 9.01 impose similar yet distinct requirements on the state. Under *Brady*, the state must not intentionally or otherwise suppress material evidence favorable to the defendant. *Walen v. State*, 777 N.W.2d 213, 216 (Minn. 2010) (citing *Brady*, 373 U.S. at 87). To establish a *Brady* violation, Manila must show (1) the evidence is favorable to him because it would have been either exculpatory or impeaching; (2) the evidence was suppressed by the prosecution, intentionally or otherwise; and (3) the evidence is material,

“in other words, the absence of the evidence must have caused prejudice to the defendant.”  
*Zornes*, 903 N.W.2d at 417 (quotation omitted).

The supreme court has concluded that Rule 9.01 “requires the State to disclose the substance of every oral statement by a witness that relates to the case, even if the witness does not disclose new or different information from previously disclosed statements.” *State v. Miller*, 754 N.W.2d 686, 705 (Minn. 2008) (citing *State v. Palubicki*, 700 N.W.2d 476, 490 (Minn. 2005)). The state’s initial Rule 9.01 disclosures must be made upon the defense’s request, without court order, and before the Rule 11 omnibus hearing. Minn. R. Crim. P. 9.01, subd. 1. The state has a “continuing duty of disclosure before and during trial.” Minn. R. Crim. P. 9.03, subd. 2(c). If a party learns of additional discoverable information after initial compliance with any discovery rules or orders, it must “promptly” disclose the information to the other party. *Id.*, subd. 2(b). All discoverable information “must be disclosed in time to afford counsel the opportunity to make beneficial use of it.” *Id.*, subd. 2(a).<sup>2</sup>

“[A] defendant’s conviction generally will not be reversed under *Brady* or Rule 9.01 unless the defendant also shows that the state’s violation prejudiced his defense.” *State v. Radke*, 821 N.W.2d 316, 326 (Minn. 2012); *see also Pederson v. State*, 692 N.W.2d 452, 459 (Minn. 2005) (describing prejudice as one of the elements of a successful *Brady* claim);

---

<sup>2</sup> Although Manila did not refer to Rule 9.03 in his brief or to the district court, we may consider its application because we have a responsibility “to decide cases in accordance with law, and that responsibility is not to be diluted by counsel’s oversights, lack of research, failure to specify issues or to cite relevant authorities.” *State v. Hannuksela*, 452 N.W.2d 668, 673 n.7 (Minn. 1990) (quotation omitted).

*State v. Jackson*, 770 N.W.2d 470, 479 (Minn. 2009) (noting the general requirement of showing prejudice under Rule 9.01). To establish prejudice under *Brady* or Rule 9.01, the defendant must show a reasonable probability that, had the evidence been disclosed, the outcome of the trial would have been different. *Radke*, 821 N.W.2d at 326 (citing *Jackson*, 770 N.W.2d at 479; *Pederson*, 692 N.W.2d at 460). “A reasonable probability is one that is sufficient to undermine confidence in the outcome.” *Walen*, 777 N.W.2d at 216 (quotation omitted).

The state’s witness disclosure did not violate *Brady* or Rule 9.01. First, the witness disclosure did not violate *Brady* because Manila has not demonstrated that the disclosure—namely that the BCA analyst informed the prosecutor that the first test result did not yield a positive result for methamphetamine and that a second, larger sample was tested—is exculpatory or impeaching. To convict Manila, the state had to prove he “unlawfully possess[ed] one or more mixtures of a total weight of 50 grams or more containing cocaine or methamphetamine.” Minn. Stat. § 152.021, subd. 2(a)(1). That the first, smaller sample did not produce a positive result for methamphetamine does not exculpate Manila because the state was only required to prove that Manila possessed a “mixture” with a total threshold weight. In other words, evidence of a lower concentration of methamphetamine potentially due to the drug being mixed with another substance in the pill bottle is not exculpatory. In addition, Manila does not argue that the disclosure is impeaching of any witness. Accordingly, the district court did not err in concluding the witness disclosure was not a *Brady* violation.



Second, the witness disclosure did not violate the discovery rules. The state has a continuing obligation to promptly disclose any relevant oral witness statement even if it does not consist of new or different information. *See Miller*, 754 N.W.2d at 705; Minn. R. Crim. P. 9.03, subd. 2(b), (c). The prosecutor received the oral witness statement the day before the trial started, and due to her own error, the disclosure occurred the second day of trial. This is a sufficiently prompt disclosure, particularly when the witness had not yet testified at the trial. In addition, the substantive information disclosed was not new information to the defense; the state had disclosed this same information before trial. All of these disclosures occurred in time for the defense to make beneficial use of the disclosure in cross-examination, and defense counsel in fact did so. *See Minn. R. Crim. P. 9.03*, subd. 2(a) (requiring disclosure “in time to afford counsel the opportunity to make beneficial use of it”). Thus, the district court did not err in concluding the witness disclosure did not violate the discovery rules.

Even if the witness disclosure violated *Brady* or Rule 9, it was “harmless beyond a reasonable doubt.” *State v. Freeman*, 531 N.W.2d 190, 198 (Minn. 1995) (reviewing discovery error under harmless-error analysis); *see also Jackson*, 770 N.W.2d at 479 (same).

Manila argues he was prejudiced because “the undisclosed evidence would have impacted defense counsel’s opening statement,” “[i]t would have prevented defense counsel from having to explain his statements he made [about not receiving the first test result] in the opening statement to the jury in closing argument,” and “the defense’s trial tactics were fundamentally impacted by the late disclosure.” Manila does not explain how

changes to his opening statement would result in a reasonable probability of a different outcome of the trial. *See Jackson*, 770 N.W.2d at 479 (stating prejudice requires a reasonable probability that the outcome of the trial would have been different if the evidence defendant should have received had been produced). Nor does he explain the basis for his assertion that counsel’s correction during closing argument or any purported effect to trial tactics impacted the verdict. Thus, these assertions do not demonstrate a reasonable probability that the outcome of the trial would have been different in the event of an earlier disclosure.<sup>3</sup>

Our review of the entire trial record confirms that there is no reasonable probability the verdict would have been different but for an earlier disclosure. First, the evidence that Manila constructively and knowingly possessed a mixture of at least 50 grams of methamphetamine was strong. *See id.* at 481 (finding no prejudice from the state’s discovery violation when the state’s evidence was strong). Specifically, the state proved that (1) the pill bottle was found in Manila’s bedroom next to methamphetamine paraphernalia, (2) Manila had tried to smoke the contents of the pill bottle, (3) the contents of the pill bottle tested positive for methamphetamine, and (4) the contents weighed over 50 grams. Second, defense counsel had an opportunity to thoroughly cross-examine the

---

<sup>3</sup> We observe that after ruling there was no discovery violation, the district court asked defense counsel if he needed more than 15 minutes to “regroup” in light of the witness disclosure because the district court “want[ed] it to go right and go fairly for everybody[.]” Defense counsel agreed that was sufficient preparation time. Thus, to the extent defense counsel’s tactics may have been affected by the timing of the disclosure, counsel acknowledged that the district court afforded sufficient time to incorporate strategy adjustments to the extent necessary.

BCA analyst about the disclosure, and defense counsel did so during trial. *See State v. Jackson*, 773 N.W.2d 111, 127 (Minn. 2009) (holding state’s discovery violation was harmless when defendant had opportunity to cross-examine witness about undisclosed evidence). Third, the record supports the district court’s finding that the BCA report that had previously been disclosed to defense counsel was not inconsistent with the witness disclosure, and defense counsel therefore had the same information prior to opening statements. Lastly, the district court found that defense counsel’s statements during opening statement implied knowledge that the first test yielded no results, which is the same information set forth in the witness disclosure. Thus, we discern no prejudice to Manila associated with the witness disclosure.<sup>4</sup> Accordingly, the district court did not abuse its discretion in denying his motion for mistrial.

**II. The district court did not abuse its discretion by excluding the comparative test results.**

Manila argues the district court abused its discretion by excluding testimony about the comparative test results of two baggies collected at Manila’s residence because it was

---

<sup>4</sup> Manila cites *State v. Kaiser* for the proposition that the supreme court “has adopted lesser requirements of prejudice than the federal courts for violations of discovery rules.” 486 N.W.2d 384, 386 (Minn. 1992). This does not seem to be an accurate characterization of *Kaiser*, where the supreme court noted that a showing of prejudice is usually required to obtain a new trial after the state’s discovery violation, and that a new trial without showing prejudice is the exception. *Id.* at 386-87. *Kaiser* granted a new trial despite no evidence of prejudice because the prosecutor deliberately concealed exculpatory information and told a witness to “keep her mouth shut.” *Id.* (quotation omitted). The supreme court has subsequently distinguished *Kaiser* as “an egregious case where the State took affirmative steps to interfere with the defendant’s ability to gather information from potential witnesses.” *Jackson*, 770 N.W.2d at 479. There is no evidence of such bad faith conduct here, and so *Kaiser* is not instructive.

not relevant. Manila argues the evidence is relevant because it “had a tendency to show that Manila’s belief [that the pill bottle did not contain methamphetamine] was reasonable,” and therefore he lacked the requisite knowledge to support a conviction for first-degree possession of a controlled substance.<sup>5</sup> We disagree.

“A district court’s evidentiary rulings will not be reversed absent a clear abuse of discretion.” *State v. Robertson*, 884 N.W.2d 864, 872 (Minn. 2016). “A court abuses its discretion when it reaches a clearly erroneous conclusion that is against logic and the facts on record.” *State v. Vasquez*, 912 N.W.2d 642, 648 (Minn. 2018) (quotations omitted). “To constitute reversible error, an evidentiary ruling must be prejudicial.” *Shea v. Esensten*, 622 N.W.2d 130, 134 (Minn. App. 2001), *rev. denied* (Minn. Apr. 25, 2001).

All relevant evidence is generally admissible. Minn. R. Evid. 402. “Relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Minn. R. Evid. 401. “[A]ny evidence is relevant which logically tends to prove or disprove a material fact in issue.” *Shea*, 622 N.W.2d at 134 (quotation omitted).

The district court did not abuse its discretion by excluding the evidence of the comparative test results of the baggies because that evidence does not logically tend to

---

<sup>5</sup> We note this belief does not appear to have been conclusively established at trial. Manila did not testify at trial. The detective testified at trial that, although Manila possibly may have said that the contents of the pill bottle were not methamphetamine, the officer ultimately testified that he did not recall what Manila had said about the contents of the pill bottle.

prove or disprove a material fact at issue. The contents of the baggies did not form the basis of the charge against Manila. Manila did not make an offer of proof as to the relevance of the contents of the baggies, nor is there any evidence in the record that he had any knowledge of the baggies, their contents, or their concentration of methamphetamine as compared to the pill bottle. Thus, it is not clear how, if at all, the concentration of methamphetamine in the baggies could have informed Manila's belief or knowledge as to the contents of the pill bottle. The district court did not reach a conclusion against logic and the facts in the record, and accordingly, it did not abuse its discretion by excluding the comparative test results.

Even so, the district court's evidentiary ruling does not constitute reversible error if it is harmless. *See State v. Post*, 512 N.W.2d 99, 102 n.2 (Minn. 1994) (noting that even if the district court erred in admitting evidence, the reviewing court determines "whether there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict"). An error is harmless if the jury could have reached the same "verdict based on the other evidence . . . presented." *State v. Blasus*, 445 N.W.2d 535, 540 (Minn. 1989). The ultimate question is "whether the error substantially influenced the verdict." *State v. Expose*, 872 N.W.2d 252, 260 (Minn. 2015).

Manila seems to argue the erroneous evidentiary ruling substantially influenced the verdict because the evidence of Manila's knowledge that the pill bottle contained methamphetamine was limited to certain essential facts. He asserts that the state relied on Manila's admission of attempting to smoke the contents of the pill bottle as evidence of Manila's knowledge that the contents contained methamphetamine, while the defense

maintained that after attempting to smoke the contents Manila believed the contents were *not* methamphetamine. Because of this, Manila argues “there is at least a reasonable possibility that the verdict might have been different had Manila been able to present to the jury case-specific information about the relative levels of concentration of methamphetamine between the two substances that were seized.”

But Manila does not explain how this assertion demonstrates a reasonable possibility that the exclusion of the evidence about the comparative test results of the baggies significantly affected the verdict. Manila does not explain how the contents of the two baggies relate to his knowledge about the substance he attempted to smoke, particularly in the absence of any evidence that Manila had any knowledge of the baggies or their contents. Even so, any error was harmless also because the other evidence presented at trial sustains the same verdict. *See Blasus*, 445 N.W.2d at 540. Defense counsel presented evidence of the methamphetamine concentration of the contents of the pill bottle as compared to the control methamphetamine sample. On cross-examination of the BCA analyst, defense counsel elicited testimony about how the pill bottle had a lower concentration of methamphetamine than the control sample and emphasized this evidence during closing argument. Thus, there is not a reasonable possibility that exclusion of the evidence of the comparative test result of the baggies significantly affected the verdict. Accordingly, the district court did not abuse its discretion by excluding the comparative test results of the baggies.

**Affirmed.**